

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

Priscilla Sterling, Raine Becker, Shawn Miller, and John Bennett, individually and on behalf of all others similarly situated,

Plaintiffs,

v.

The City of Jackson, Mississippi; Chokwe A. Lumumba; Tony Yarber; Kishia Powell; Robert Miller; Jerriot Smash; and Trilogy Engineering Services LLC,

Defendants.

Civil No. 3:22-cv-00531-KHJ-MTP

PLAINTIFFS' RESPONSE TO CHOKWE A. LUMUMBA, TONY YARBER, KISHA POWELL, ROBERT MILLER, AND JERRIOT SMASH'S MOTION TO DISMISS THE SECOND AMENDED CLASS ACTION COMPLAINT FOR INJUNCTIVE RELIEF AND MONEY DAMAGES AND/OR FOR QUALIFIED IMMUNITY

1. On February 5, 2024, the Court dismissed with prejudice Plaintiffs' bodily integrity, state-created danger, and negligence claims against the Individual Defendants. Order [Doc. 97] at 26. The Court dismissed Plaintiffs' bodily integrity claim against the City of Jackson without prejudice, stating "the Court will allow Plaintiffs another opportunity to plead their bodily integrity claim, focusing solely on the misrepresentation allegations." *Id.* at 21. As such, the Court "allow[ed]

Plaintiffs 14 days to replead their bodily integrity claim against the City of Jackson.” *Id.* at 27.

2. On February 20, 2024, Plaintiffs filed their Second Amended Class Action Complaint (SAC). SAC [Doc. 101]. As directed by the Court, Plaintiffs amended their bodily integrity claims against the City of Jackson, focusing on Plaintiffs’ misrepresentation allegations.

3. As directed by the Court, Plaintiffs did not amend their claims against the Individual Defendants. Instead, as stated by Defendants, Plaintiffs’ claims against the Individual Defendants in the SAC are “identical” to those alleged in their First Amended Complaint. Mot. [Doc. 104] at 2. Plaintiffs did not remove their claims against the Individual Defendants to preserve them for potential appellate proceedings. However, Plaintiffs recognize that the Court’s February 5, 2024 Order dismissing with prejudice Plaintiffs’ claims against the Individual Defendants governs.

Dated: March 28, 2024

/s/Mark P. Chalos
Mark P. Chalos (*Pro Hac Vice*)
Lead Counsel
Lief Cabraser Heimann & Bernstein, LLP
222 2nd Avenue South, Suite 1640
Nashville, TN 37201-2379
Telephone: 615-313-9000
Facsimile: 615-313-9965
mchalos@lchb.com

Robert L. Gibbs (Bar No. 4816)
Gibbs Travis PLLC
210 East Capitol Street, Suite 1801
Jackson, MS 39201
Telephone: 601-487-2640
Fax: 601-366-4295
rgibbs@gibbstravis.com

Tiseme G. Zegeye (*Pro Hac Vice*)
Amelia A. Haselkorn (*Pro Hac Vice*)
Lieff Cabraser Heimann & Bernstein, LLP
275 Battery Street, 29th Floor
San Francisco, CA 94111-3339
Telephone: 415-956-1000
Facsimile: 415-956-1008
tzegeye@lchb.com
ahaselkorn@lchb.com

Stuart C. Talley (*Pro Hac Vice*)
Kershaw Talley Barlow, P.C.
401 Watt Avenue, Suite 1
Sacramento, CA 95864
Telephone: 916-779-7000
stuart@ktblegal.com

Larry Moffett (Bar No. 3401)
Law Office of Larry D. Moffett PLLC
P.O. Box 1418
39 CR 231
Oxford, MS 38655
Telephone: 662-298-4435
larry@larrymoffett.com

Attorneys for Plaintiffs and the Proposed Class

CERTIFICATE OF SERVICE

I hereby certify that on March 28, 2024, I electronically filed the foregoing pleading with the Clerk of the Court using the CM/ECF system which served a copy of the foregoing on all counsel of record.

/s/ Amelia A. Haselkorn

Amelia A. Haselkorn